

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

U.S. DISTRICT COURT
DISTRICT OF VERMONT
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HUBBARDTON FORGE, LLC)
Plaintiff)
v.) Docket No. 2:10-cv-47
INTERLINE BRANDS, INC.)
d/b/a AF LIGHTING,)
Defendant)

COMPLAINT AND JURY DEMAND

Plaintiff Hubbardton Forge, LLC, by its undersigned attorneys, for its Complaint against Defendant Interline Brands, Inc. d/b/a AF Lighting, alleges as follows:

Nature of Action

1. This is an action for trademark (trade dress) infringement in connection with a "knock-off" of Plaintiff's signature lighting fixture. Plaintiff seeks all appropriate relief, including injunctive relief, treble damages, profits, and attorneys' fees.

Parties

2. Plaintiff Hubbardton Forge, LLC ("Hubbardton") is a limited liability company organized and existing under the laws of the State of Vermont, with a principal place of business in Castleton, Vermont. Hubbardton is an award-winning, design-based Vermont manufacturer of hand-crafted lighting fixtures and accessories.

3. Upon information and belief, Defendant Interline Brands d/b/a AF Lighting (“AF”) is a New Jersey corporation with a principal place of business at 801 West Bay Street, Jacksonville, Florida. AF manufactures and sells lighting fixtures throughout the United States, including in Vermont, through dealers and resellers such as Home Depot.

Jurisdiction and Venue

4. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1338(a).
5. Venue lies in this district pursuant to 28 U.S.C. §§ 1391(b) and (c).

Facts

6. Hubbardton owns federal trademark registration number 3,691,017 for its sweeping taper design in connection with electric lighting fixtures. *See Exhibit A.*

7. AF has marketed, sold and offered for sale a product using a confusingly similar “knock-off” design, and has even incorporated Hubbardton’s design into its website logo. *See, e.g., Exhibit B.*

COUNT I
Trademark Infringement

8. Plaintiff repeats and reavers the foregoing allegations as though fully set forth herein.

9. Plaintiff has a valid, protectable trademark in its trade dress, and Defendants’ uses of that mark creates a likelihood of confusion.

10. By virtue of the foregoing, Defendant has willfully infringed Plaintiff’s trademark in violation of 15 U.S.C. § 1114(1)(a).

COUNT II
Trademark Dilution

11. Plaintiff repeats and reavers the foregoing allegations as though fully set forth herein.
12. Plaintiff's mark is well known and famous, and Defendant is making commercial use of it in commerce.
13. Defendant's use of the marks began after the mark became well known and famous.
14. Defendant's use of the mark dilutes its quality by diminishing its capacity to identify and distinguish goods and services.
15. By virtue of the foregoing, Defendant has violated the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c).

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- A. permanently restraining and enjoining Defendant from infringing Plaintiff's trademark pursuant to 15 U.S.C. § 1116
- B. awarding Plaintiff its damages, together with Defendant's profits and the costs of this action, pursuant to 15 U.S.C. § 1117(a);
- C. awarding Plaintiff treble damages pursuant to 15 U.S.C. § 1117(a);
- D. deeming this an "exceptional case" and awarding Plaintiff its attorneys' fees pursuant to 15 U.S.C. § 1117(a); and
- E. awarding Plaintiff such other and further legal and equitable relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands trial by jury of all issues so triable with respect to the Complaint.

Dated: Burlington, Vermont
 March 8, 2010



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